

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA :

v. : NO. 3:06CR161(EBB)

JAMES E. GALANTE, ET AL :

RULING ON ROSEANNE GALANTE'S MOTION TO DISSOLVE
AND/OR MODIFY RESTRAINING ORDER

Roseanne Galante, who is not a defendant in this criminal action, has moved to dissolve and/or modify a restraining order issued ex parte by this court on June 8, 2006, with respect to sixteen accounts which she alleges rightfully and lawfully belong to her. These accounts are among properties listed in the indictment and claimed forfeitable to the United States in the event of convictions under Counts One and Two of the indictment. Mrs. Galante requests an opportunity to be heard at a pre-trial adversarial hearing although she cites no authority or precedent for such a hearing.

A post-indictment restraining order or injunction may be issued by the court as here where the indictment charges a violation of 18 U.S.C. § 1962 and alleges that property with respect to which an order is sought would, in the event of conviction, be subject to forfeiture. Such an order may be issued to unindicted third parties such as Mrs. Galante. U.S. v. Regan, 858 F.2d 115 (2d Cir. 1988).

Although 18 U.S.C. § 1963(d)(1)(B) authorizes a hearing where such an order is sought pre-indictment and notice has been given to persons appearing to have an interest in the property, the statute, § 1963(d)(1)(A), does not so provide where an indictment has been returned listing property for forfeiture after conviction. In such a case, where a conviction is obtained, any person claiming an interest in the property to be forfeited may petition the court for a hearing to adjudicate the validity of her interest in the property. 18 U.S.C. § 1963()(2); Fed. R.Cr. P. 32.2.(c). This procedure will be available to Mrs. Galante in the event of the entry of an order of

forfeiture to the subject accounts.

The motion [Doc. No. 118] is denied.

SO ORDERED.

ELLEN BREE BURNS, SENIOR JUDGE
UNITED STATES DISTRICT COURT

Dated at New Haven, CT, this ____ day of August, 2006.